State-endorsed euthanasia is a rejection of the duties we owe others and of the claims others have upon us. It is both a dangerous falsehood and a threat to the social and legal norms underpinning civil society, a myth that must be resisted by all who value human dignity.

The phrase “dying with dignity” falls easily enough these days from the lips of many people in liberal democracies such as Australia. It’s a coded phrase, of course, referring to the idea that each of us should be entitled to decide exactly how and when we die—as if an unexpected death, or one that comes as a result of illness rather than our own volition, is by that very fact lacking in dignity. And you don’t even need to be terminally ill to decide it’s time to go; “dying with dignity” is almost being promoted as little more than a lifestyle choice. “The state should no more intrude on personal decisions at the close of life than at any point during it,” argued the Economist, mourning what it saw as an opportunity missed by the UK Parliament in September 2015 to reform the law on assisted suicide: “Governments everywhere should recognise that, just as life belongs to the individual, so should its end.”

Proponents of the right to die defend this ownership of the “end” and argue that they want to uphold the key principle of individual freedom. Freedom is a basic good, they say, and any prohibition is an unwarranted restriction on an individual’s freedom to choose how—and for how long—they wish to live. Yet this absolutist view of autonomy comes very close to asserting that the desire or the choice—or even the need—to die must be understood as a right to die. Choice is paramount; but choice has little to do with “rights”. While I can certainly choose to end my life and may desire to do so, the idea that I have a right to do so is not simply erroneous. By harming the web of social relations and obligations comprising community and family life, claiming a “right to die” actually threatens to tear at the fabric of civil society and do irreparable harm to the social roles and attachments constitutive of individual identity. Exercising the freedom to end one’s own life is coming to be seen as a mark of autonomy and independence of mind. But this view, although increasingly widely held, is mistaken because it ignores prevailing social proscriptions about suicide. The “right to die” is a rhetorical device intended to halt further discussion about the acceptability of self-inflicted death. The “right to die”, in other words, is a myth.
Declaring the freedom to do something is very different from declaring that one has a right to do it. Neither a need nor a desire is identical to a right. Each of us is free to choose to do all kinds of things: to commit burglary, to commit murder, and to drive under the influence of alcohol. The law doesn’t stop us from committing any such acts; it just stipulates the consequences we’ll have to bear if we do commit them—and get caught. But when a particular outcome is desired, rights-based language is frequently deployed in an attempt to turn a freedom to choose that outcome into a right that supposedly guarantees an entitlement to the outcome. As Penney Lewis, Co-Director of the Centre of Medical Law and Ethics at King’s College London, has observed, “Transforming an argument into the form of a right increases its palatability and persuasive force.”

Every death by intentional self-harm has a profound impact on others. Such a death often causes great emotional trauma among the family, friends and community of the deceased. Grief is likely to be compounded by complicated feelings of guilt and even anger about what the deceased has done, particularly so when the suicide is an aggressive act directed at others.

Groups such as Exit International, however, use rights discourse to promote the palatability of killing oneself intentionally—that is, of suicide. Founded in 1997 by Dr Philip Nitschke, Exit International argues not only for the freedom to choose to end one’s life, but for this freedom to be understood in terms of the exercise of a right “to determine the time and manner of [one’s] passing”. Exit also promotes the primacy of choice by maintaining a steady challenge to the idea that the only circumstances in which a person might voluntarily wish to end their own life are those of a grave and terminal illness. According to the website, Exit International has a worldwide membership of around 18,000 people, the average age of whom is seventy-five. The vast majority of members comprise “the well elderly” but there is a significant minority that are seriously ill.

For Philip Nitschke and his supporters, death needs to be uncoupled from medicine and understood as an expression of individual preference. Never mind what the doctors say, declares Exit’s website, the decision to die is best left to the individual concerned: “Exit’s aim is to ensure the individual is fully supported by family and friends and has access to the best available information.” But the words and phrases used to convey the apparent reasonableness of exercising that choice—“dying with dignity”, “euthanasia”, and “deliverance”—are all euphemisms intended to break the taboo surrounding suicide. A taboo is a social custom offering protection from that which society deems an inherently harmful practice. Euphemistic phrases about suicide serve to weaken the taboo surrounding suicide by placing some distance between the comforting notion of a decision freely taken and the stark fact that they actually describe the deliberate termination of human life by one’s own hand or with the assistance of another.

The term “right to die” has an admittedly wide range of meanings that can easily lead to confusion. One meaning concerns the refusal of medical treatment. When faced with medical intervention—such as the use of a respirator or a therapy such as kidney dialysis which are intended only to sustain life and alleviate pain rather than cure an illness—any person has a right to refuse treatment, even though to do so may lead to an increased risk of death. The assertion of a right to refuse treatment looks very like the assertion of a “right to die”. As the Canadian ethicist Margaret Somerville has argued, however, “A right to refuse treatment is based in a right to inviolability—a right not to be touched, including by treatment, without one’s informed consent. It is not a right to die or a right to be killed.”
Another meaning of euthanasia does concern the demand not only for the discontinuance of treatment but for positive assistance in dying by, say, a lethal dose of a drug administered either by a physician or oneself. Although this also looks very like the assertion of a “right to die”, it might also be described as the assertion of a “right to commit suicide” or a “right to become dead”. “At most, people have a negative content right to be allowed to die, not any right to positive assistance to achieve that outcome,” Somerville asserts. Perhaps it is more accurate to say a person is free to become dead.

Free or not, suicide is a national tragedy and the leading—and increasing—cause of premature death in Australia. Mortality data released by the Australian Bureau of Statistics in March 2016 showed that the overall suicide rate increased to twelve suicides per 100,000 people in 2014 (up from just under eleven per 100,000 in 2013); the highest rate since 2001. Men account for a little over 75 per cent of deaths by suicide, but when it comes to overall rates of what the ABS calls “intentional self-harm deaths”, younger age groups of both men and women comprise a higher proportion of those deaths, with the highest rate (30.2 per cent) in the twenty-to-twenty-four age group. According to the National Mental Health Commissioner, Ian Hickie, one of the factors accounting for the recent surge among middle-aged men is that men who were depressed during adolescence in the 1990s have carried suicidal ideation—that is, thinking seriously about suicide—into mid-life. ABS statistics show that in the group of males aged forty to forty-four, 18.3 per cent of deaths are attributable to suicide.

Criminal law codes imposed sanctions for attempted suicide in the past because of suicide’s wider impact on society. Suicide was regarded as an offence against humankind because it deprived one’s family and community of a member prematurely, and denied them the opportunity to care for the troubled individual. In many places, the law has now changed. Attempted suicide ceased to be a felony in England in 1961. Reform happened earlier in all Australian jurisdictions—much earlier in the case of New South Wales, where the Crimes Act 1900 abolished the offence of attempted suicide. It remains, however, an offence everywhere in Australia, punishable by up to five years in prison, to incite, counsel or assist another to commit suicide or attempt to commit suicide. Another practice illegal in all states (although legal in the Northern Territory for a time in the late 1990s) is euthanasia—the painless killing of a person suffering from an incurable illness.

The literal meaning of “euthanasia”, from its Greek roots, is easy or gentle death. Some argue that doctors already often practice a discreet form of euthanasia by using techniques of palliative care to relieve suffering; but there is a world of difference between an analgesic and a lethal dose of a drug. It is one thing if pain reduction has the unintended effect of shortening life, but quite another if a medicine is administered with the direct object of killing the patient. Since few would wish a painful or distressing death upon another, however, the etymology of euthanasia doesn’t get us very far in terms of evaluating the morality of euthanasia. And since the administration of compulsory euthanasia (that is, where a person is put to death painlessly but without their consent) clearly amounts to a murder, it is more helpful to consider the practice of voluntary euthanasia—or suicide; that is, where a person of sound mind seeks the termination of their own life.

The New South Wales Crimes Act indicates clearly that one of the factors according to which an act causing death can amount to murder is where it has been done with the intent to kill another person. Accordingly, not only would a person counselling another to commit suicide commit a crime, the provision in any circumstances of the means to commit suicide, such as acceding to an individual’s voluntary request for the administration of a drug to bring about
death, could well be construed as an act of murder. Groups lobbying for the legalisation of voluntary euthanasia contend that when a person voluntarily and freely wishes to terminate their own life, the law should permit them either to be supplied with the means to do so, or to be free to authorise a doctor to do so for them. For the time being, however, any involvement with the suicide of another remains a criminal offence everywhere in Australia.

Advocates of the so-called “right to die” are using the language of rights in their attempt to win moral and legal acceptance not only for the idea that human life is not inviolable but also for the primacy of rights over other forms of moral discourse. Rights language has such popular and political force, says Penney Lewis, that it often obscures those other forms, particularly arguments about duties—that is, those specific obligations, legal or moral, that are owed to others and flow from one’s participation in civil society:

Arguments which are not in the form of rights, such as those premised on duties, do not truly disappear from the debate, but rather are transformed into rights discourse while their original form remains covert and unrecognized.

The eclipse of duties that are “other-concerning” by rights that are “self-concerning” is critically important. When calls for the freedom to be allowed to become dead are couched in the language of rights, they tend to conceptualise a society composed simply of self-interested individuals intent upon severing all social ties and obligations when they see fit. In such a society, no one owes anything to anyone. This is why the assertion of the right to die is what the philosopher Roger Scruton describes as a “claim right” in contrast to a “freedom right”.

According to Scruton, “freedom rights”, such as the right to free movement and the right to property, allow an individual to establish a sphere of personal sovereignty from which that person can negotiate behaviour in relation to others. A freedom right amounts to a justified demand made against others that they refrain from interfering with the individual. It is observed or respected by non-invasion or non-action, thereby enabling us to establish a society in which consensual relations are the norm. Freedom rights do this by defining for each individual the sphere of sovereignty from which others are excluded.

Claim rights, by contrast, are asserted as a claim upon a non-specific benefit such as education, health, a standard of living, or even compensation. They are simply demands that someone else do something or give something that the one demanding has an interest in their doing or giving. According to Scruton, assertion of the “right to die” is the assertion of a “claim right” because while it is thought to allow the individual to express sovereignty over his or her life, it simply presumes an obligation owed by the state to the individual—but one that is neither negotiated nor reciprocal. It is the individual alone who decides whether or not life is worth living; his or her decision is not to be overridden by any other institution or structure, whether the state, the church, or the family. For those who assert the “right to die”, the conviction that autonomous individuals are quite free to define their own conceptions of the good is warranted by the presumption of human dignity; this, in turn, is intimately connected with self-respect and the paramount status of individual choice: if this is what I want, I am justified in demanding it in virtue of my autonomous status as a human being. As Leon Kass has remarked:

In civil society the natural rights of self-preservation, secured through active but moderate self-assertion, have given way to the non-natural rights of self-creation and self-expression;
the new rights have no connection to nature or reason, but appear as the rights of the untrammelled will.

Lying at the very heart of the concept of human rights is the notion of the inherent worth of the individual: human beings are due a certain minimal respect—which includes the inviolability of human life—simply in virtue of their being human. Isn’t this the very inviolability that guarantees that abuses such as torture are always objectively and absolutely wrong? Yet as the neuroscientist Neil Scolding has remarked: “The moment the law, or society, accepts that the rule of fundamental respect [for human beings] can be waived in certain individuals, whether of their choice or otherwise, the principle is lost. Mere anarchy is loosed.” Proponents of a “right to die” assert, of course, the overriding importance of individual autonomy—what Kass sees as being the expression of the “untrammelled will”—and on this basis hold that the principle of the inviolability of human life can be waived. But as Scolding warns:

The most important reason why belief in such a right is wrong-headed lies in a consideration of society. For both as a society, and for the sake of society, we in fact hold that self-determination, and patient choice, are not moral absolutes ... In attempting to waive our personal inviolability in some way ... the harm is not just to ourselves but, far more importantly, to others around us, to society as a whole. The impact of our choices and actions on society ... has always overridden autonomy in such instances.

The rhetoric of rights deployed to promote the idea of “dying with dignity” actually entails a grotesque inversion of the very principle of a “right”. Developed for the protection and preservation of the individual against the demands of the state and of other individuals, the language of rights has now been commandeered to promote the wants and demands of the “self” that include the desire for self-negation. This individuated “self” finds its ultimate expression in the self-negating assertion of the “right to die”. This new rights rhetoric has little to do with the protective function of human rights but is concerned solely with trying to fathom immensely complex moral problems:

In trying to batter our way through the human condition with the bludgeon of personal rights, we allow ourselves to be deceived about the most fundamental matters, about our unavoidable finitude, and about the sustaining interdependence of our lives.

Kass has wryly suggested that asserting the “right to die” is simply “the complaint of human pride” against the injustice meted out by nature against human beings ill-fated, as we all are, to die. “The ill-fated demand a right not to be ill-fated,” he says. “Those who want to die, but cannot, claim a right to die.”

The span of human life is short, and death is certain. It is up to us to decide how we use our biblically allotted “threescore years and ten”, but we have a limited number of years in which to make something of ourselves and to create lives that express meaning and purpose. Religion at its best, far from being a code of oppressive rules and constraints, is one feature of society that can help us give such shape to our lives by recalling us to an awareness of our interdependence and the importance of community. Rituals around birth and death, together with those marking important stages along the way, all help to express the dignity that encompasses both the span of an entire human life and the intrinsic value of the person both as an individual and as a member of society.
“Rights” involve obligations owed by, and to, individuals. The health of civil society depends on acknowledging the many responsibilities those mutual obligations place upon us. The absolutist claim to autonomy sits uneasily with the basic principles and requirements of civil society, because a deliberate and voluntary act of suicide amounts to a repudiation of those mutual obligations. We bear a general duty to relieve the suffering of others—but not at any price demanded by the autonomy absolutists. Doctors have dealt with the problem of prolonged suffering by employing the palliative principle of double effect; in effect to hasten death but not directly aiming to do so, only so as to reduce suffering. But as the psychiatrist Anthony Daniels has observed, “Once it becomes a question of rights rather than humanity, there is a kind of creep: why should the dying have all the best deaths? And who better than a person himself to decide whether his suffering is intolerable?”

Claims for the “right to die” amount to a one-way ratchet effect in asserting the primacy of autonomy. But they need to be resisted because of the impact such autonomous choices are likely to have on the wider society—on the family, on friends, on the local community—in which we live. We must also resist arguments that none of these considerations can ever outweigh the value of individual choice; indeed, it is these considerations that must override assertions of individual autonomy. The “right to die” is a rejection of the duties we owe others and of the claims others have upon us. As such, it is a threat to the social and legal norms underpinning civil society because of its moral assault upon the dignity of every human being. The “right to die” is a dangerous falsehood—a myth—that must be resisted.

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